

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8221 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

MUKESH @ BADO MOHANLAL BHATI

Versus

COMMISSIONER OF POLICE

Appearance:

MS DR KACHHAVAH for Petitioner

MS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 30/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner herein challenges the order of preventive detention dated 31st August, 1998 made by the

Commissioner of Police, Ahmedabad City, under the powers conferred upon him under Sub-section 2 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. The petitioner is alleged to be a habitual offender and for that matter, 'a dangerous person' within the meaning of Section 2 (c) of the Act, and his activities are alleged to be detrimental to the maintenance of public order. As many as 16 offences punishable under Chapter XVII of the Indian Penal Code have been registered against the petitioner during the period from 15th November, 1997 to 27th August, 1998. Most of the offences are committed within the jurisdiction of Ellis Bridge & Navrangpura Police Stations. Besides, two individuals, on assurance of anonymity, have given statements in respect of the incidents that occurred on 5th July, 1998 and on 12th July, 1998. On 5th July, 1998, the petitioner asked witness to purchase some Car Cassette Players which the witness refused to do. Upon being refused, the petitioner was enraged. He dragged the witness from the place of his business to a public road and started beating him. He also robbed the witness of his cash worth Rs. 50/- under the threat of death. The incident attracted crowd of people who too were extended threats at the knife point. A similar incident occurred on 12th July, 1998 with the second witness. He too was robbed of cash worth Rs. 400/-. The people who were gathered were also given threats of dire consequences and pursued with an open knife. In both the incidents, terror and a feeling of insecurity were caused. The people had to run for their safety, causing obstruction to the vehicular traffic also. The aforesaid statements of the witnesses have been personally verified by the detaining authority. The detaining authority has recorded verification in respect of the genuineness of the said statements given by the witnesses and the fear of retaliation expressed by them. He has recorded his personal satisfaction regarding genuineness of the said statements and necessity to invoke privilege conferred under Section 9 (2) of the Act.

The only ground of challenge urged before me is : the activities of the petitioner can at the most be said to be detrimental to the maintenance of law and order and cannot be equated with the maintenance of 'public order'. The said activities have no element of causing breach of 'public order'. I am unable to agree with this contention. Be it noted that the petitioner's activities are confined mainly to specific areas of the City and the

several offences have been committed in quick succession within a short span. The individual offence may not cause breach of 'public order' however, several offences committed in the quick succession, in a specific locality, would certainly create a feeling of insecurity in the minds of the residents. Besides, the two incidents narrated by the witnesses also disclose that the petitioner moves around with lethal weapons and use the same for extorting money and creating terror. Such incidents are certainly prejudicial to the maintenance of 'public order'.

4. For the aforesaid reasons, petition is dismissed.
Rule is discharged.

Prakash*